

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

INVENTORS: Scott McCleskey  
Robert O'Kane

ASSIGNEE: WebHound, Inc.

SERIAL NUMBER: 10/672,644  
DATE FILED: 09/27/2003  
CONFIRM. NO.: 8219

TITLE: METHOD AND SYSTEM FOR DOWNLOADING DIGITAL  
CONTENT OVER A NETWORK

ATTORNEY DOCKET: 4472 P

Mail Stop: Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**CERTIFICATE OF MAILING**

Honorable Commissioner:

I hereby certify that the attached paper of fee (Response to Decision Refusing Status Under 37 CFR 1.47(a)) is being deposited with the United States Postal Service as "Express Mail Post Office to Addressee," Express Mail Mailing Label Number ED439993039US, (under 37 C.F.R. § 1.10) on this 4<sup>th</sup> day of October, 2004 with sufficient postage and in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, Mail Stop: Petitions.

Signature of registered practitioner or other person  
having a reasonable basis to expect mailing to occur  
on the date of deposit shown pursuant to 37 C.F.R.  
§ 1.8(a) or person actually making deposit pursuant  
to 37 C.F.R. § 1.10(b).

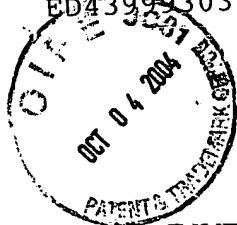
Lloyd W. Sadler, Reg. No. 40,154

Name of person whose signature is given above

Express Mailing  
Label  
ED439993039US

10-06-04

UFC  
JFW



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

INVENTORS: Scott McCleskey  
Robert O'Kane

ASSIGNEE: WebHound, Inc.

SERIAL NUMBER: 10/672,644  
DATE FILED: 09/27/2003  
CONFIRM. NO.: 8219

TITLE: METHOD AND SYSTEM FOR DOWNLOADING DIGITAL  
CONTENT OVER A NETWORK

ATTORNEY DOCKET: 4472 P

Mail Stop: Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**COVER LETTER  
RESPONSE TO DECISION UNDER 37 CFR 1.47(a)**

Honorable Commissioner:

Enclosed herewith please find the following documents comprising a Response to Decision Refusing Status Under 37 CFR 1.47(a): (1) a copy of the Decision, (2) a signed declaration of executed by Inventor McCleskey, without alterations, and (3) a return receipt postcard.

In the Decision, the Office of Petitions indicated that the Petition filed on June 18, 2004 did not satisfy requirements (2) an acceptable oath or declaration, and (4) a statement of the last known address of the non-signing inventor. In response to requirement (2) the applicant has included with this response a substitute declaration without alterations. In response to requirement (4) the applicant confirms that the last known address for inventor O'Kane is:

14 Colonial Club Drive,  
#200  
Boynton Beach  
Florida, 33435  
U.S.A.

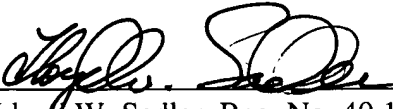
This is the address provided in the previously filed petition. This address is listed on the

substitute declaration, enclosed.

The applicant appreciates the Office's consideration and believes that this response is fully responsive to the notice of Decision Refusing Status. Thank you.

The applicant believes that no fee is required for this response. In the event a fee is required, the Commissioner is hereby authorized to charge any required fees to Deposit Account No. 50-0581.

Respectfully submitted this 4<sup>th</sup> day of October, 2004.

  
\_\_\_\_\_  
Lloyd W. Sadler, Reg. No. 40,154  
PARSONS BEHLE & LATIMER  
201 South Main Street, Suite 1800  
Salt Lake City, Utah 84111  
Telephone: (801) 532-1234  
Facsimile: (801) 536-6111

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

Lloyd W. Sadler  
Parsons Behle & Latimer  
Suite 1800  
201 South Main Street  
Salt Lake City UT 84111

COPY MAILED

AUG 19 2004

OFFICE OF PETITIONS

In re Application of  
McClesky et al.  
Application No. 10/672,644  
Filed: September 27, 2003  
Attorney Docket No. 4472 P  
Title: Method and System For Downloading  
Digital Content Over A Network

:  
: DECISION REFUSING STATUS  
: UNDER 37 CFR 1.47(a)  
:  
:  
:

This is in response to the petition under 37 CFR § 1.47(a), filed June 18, 2004.

The petition under 37 CFR. § 1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR. § 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR. §1.136(a).

The above-identified application was filed on September 27, 2003, without an executed oath or declaration. Accordingly, on December 19, 2003, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of this decision an executed oath or declaration in compliance with § 1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of February 19, 2004.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, and a partially executed declaration. To make the reply timely, a four (4) month extension of time was also submitted.

A grantable petition under 37 CFR. § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirements (2) and (4).

As to item (4), a last known address for inventor O'Kane was provided in the petition, however a different address for inventor O'Kane has been provided on the declaration. Rule 47 applicant needs to indicate at which address inventor O'Kane can be reached. The inventor's most recent home address must be given to enable the Office to communicate directly with the inventor as necessary. See MPEP 605.03. If inventor O'Kane can be reached at the Florida address, the newly executed declaration should reflect the Florida address.

**By mail:** Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

By delivery service:  
(FedEx, UPS, DHL, etc.)

U.S. Patent and Trademark Office  
20<sup>th</sup> Street S.  
Customer Window, Mail Stop Petition  
Crystal Plaza Two, Lobby, Room 1B03  
Arlington, VA 22202

Charlema R. Grant  
Petitions Attorney  
Office of Petitions

'Express Mailing'

Label:

ED439993039US



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

INVENTORS: Scott McCleskey  
Robert O'Kane

ASSIGNEE: WebHound Corporation

SERIAL NUMBER: 10/672,644

DATE FILED: 09/27/2003

TITLE: METHOD AND SYSTEM FOR DOWNLOADING DIGITAL  
CONTENT OVER A NETWORK

ATTORNEY DOCKET: 4472 P

Mail Stop: PATENT APPLICATION  
Commissioner for Patents  
P.O. Box 1250  
Alexandria, VA 22313-1450

**DECLARATION FOR PATENT APPLICATION**

Honorable Commissioner:

As the below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe that I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled METHOD AND SYSTEM FOR DOWNLOADING DIGITAL CONTENT OVER A NETWORK the specification of which

☐ is attached hereto  
☒ was filed on 09/27/2003 \_\_\_\_\_  
as Application Serial No. 10/672,644 \_\_\_\_\_  
and was amended on \_\_\_\_\_ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, § 1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119

of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)			Priority Claimed
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
(Number)	(Country)	(Date)	
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
(Number)	(Country)	(Date)	
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
(Number)	(Country)	(Date)	

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below.

Prior Provisional Application(s)	
_____	_____
(Application No.)	(Filing Date)
_____	_____
(Application No.)	(Filing Date)
<u>80/252,334</u>	<u>11/23/2000</u>
(Application No.)	(Filing Date)

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

**Prior United States Application(s):**

<u>09/683,228</u>	<u>12/04/2001</u>	<u>Pending</u>
(Application No.)	(Filing Date)	(Status - patented, pending, abandoned)
<u>10/002,267</u>	<u>11/21/2001</u>	<u>Pending</u>
(Application No.)	(Filing Date)	(Status - patented, pending, abandoned)

**Power of Attorney**

I hereby appoint Lloyd W. Sadler (Reg. No. 40,154) and Daniel P. McCarthy (Reg. No. 36,600) as my representatives and attorneys and/or agents to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith. All communications should be directed to Mr. Sadler at the following address or telephone number:

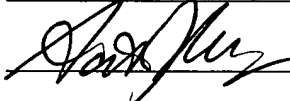
Lloyd W. Sadler  
PARSONS BEHLE & LATIMER

201 South Main Street, Suite 1800  
Salt Lake City, Utah 84111  
(801) 532-1234 - telephone  
(801) 536-6111 - facsimile

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of inventor: Scott McCleskey  
Residence of inventor:  
Address: 265 Chipman Ave.  
City: American Fork  
State: Utah 84003  
Citizenship: United States of America.

Post Office Address of Inventor:  
Address: 265 Chipman Ave.  
City: American Fork  
State: Utah 84003

Inventor's Signature:  Date: 18 Sept 2004.

Full name of inventor: Robert O'Kane  
Residence of inventor:  
Address: 14 Colonial Club Dr. #200  
City: Baynton Beach, FL  
State: FLORIDA 33435  
Citizenship: United States of America.

Post Office Address of Inventor:  
Address: 14 Colonial Club Dr. #200  
City: Baynton Beach  
State: FLORIDA 33435

Inventor's Signature: \_\_\_\_\_ Date: \_\_\_\_\_